

12-1-11 Collection fee.

- (1) As used in this section:
 - (a) "Creditor" is as defined in 15 U.S.C. Sec. 1692a.
 - (b) "Debt" means an obligation or alleged obligation to pay money arising out of a transaction for money, property, insurance, or services.
 - (c) "Debtor" means a person obligated or allegedly obligated to pay a debt.
 - (d) "Third party debt collection agency" means:
 - (i) a debt collector as defined in 15 U.S.C. Sec. 1692a; or
 - (ii) a person who would be a debt collector under 15 U.S.C. Sec. 1692a, except that the person does not use an instrumentality of interstate commerce or the mail.
- (2) A creditor may require a debtor to pay a collection fee in addition to any other amount owed to the creditor for a debt if:
 - (a) imposing a collection fee on the debtor or in relation to the debt is not prohibited or otherwise restricted by another federal or state law;
 - (b) the creditor contracts with a third party debt collection agency or licensed attorney to collect the debt;
 - (c) the third party debt collection agency with which the creditor contracts is registered under this title;
 - (d) there is a written agreement between the creditor and the debtor that:
 - (i) creates the debt; and
 - (ii) provides for the imposition of the collection fee in accordance with this section; and
 - (e) the obligation to pay the collection fee is imposed at the time of assignment of the debt to a third party debt collection agency or licensed attorney in accordance with an agreement described in Subsection (2)(d).
- (3) The creditor shall establish the amount of the collection fee imposed under this section, except that the amount may not exceed the lesser of:
 - (a) the actual amount a creditor is required to pay a third party debt collection agency or licensed attorney, regardless of whether that amount is a specific dollar amount or a percentage of the principal amount owed to the creditor for a debt; or
 - (b) 40% of the principal amount owed to the creditor for a debt.
- (4) An obligation to pay a collection fee imposed under this section is in addition to any obligation to pay attorney fees that may otherwise exist.

Enacted by Chapter 350, 2010 General Session